



February 17, 2009

HOUSE BILL No. 1604

DIGEST OF HB 1604 (Updated February 16, 2009 11:38 pm - DI 113)

Citations Affected: IC 6-9; IC 36-10.

Synopsis: Local taxes. Changes the name of the Fort Wayne-Allen county convention and tourism authority to the Allen County-Fort Wayne capital improvement board of managers. Transfers any excess Allen County food and beverage tax revenue that is not needed to pay obligations (bond, loan, or lease) in existence on January 1, 2009, to the Allen County-Fort Wayne capital improvement board. Provides that the board must deposit the amount transferred into a reserve account, where it must be held for 12 months. Allows the board to transfer interest on the reserve account and amounts on deposit for more than 12 months to the board's capital improvement fund. Provides that, after June 30, 2009, the board must approve any food and beverage tax pledge for bonds, loans, or leases. Requires the executive director of the Allen County Memorial Coliseum to file an annual report of operations with the capital improvement board on or before December 31 each year. Requires the executive manager of the capital improvement board to file an annual report of operations with the capital improvement board on or before December 31 each year. Provides that the part of the Vanderburgh County innkeeper's tax rate that is dedicated to pay the operating expenses of a convention center is reduced from 2% to 1% after December 31, 2014 (rather than after December 31, 2009, under current law). Provides for a corresponding delay in the increase in the part of the Vanderburgh County innkeeper's

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Effective: July 1, 2009.

GiaQuinta, Borrer, Moses, Bell

January 16, 2009, read first time and referred to Committee on Local Government.
February 10, 2009, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.
February 17, 2009, amended, reported — Do Pass.

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tax rate that is deposited in the tourism capital improvement fund. Specifies that if the Vanderburgh County council adopts a resolution providing that the Vanderburgh County food and beverage tax should be continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, any excess food and beverage tax revenue that is not needed to pay any bonds, leases, or other obligations for a convention center shall be transferred to the fiscal officer of the largest municipality in the county. Requires the municipal fiscal officer to deposit the excess food and beverage tax revenue in a municipal arena fund. Provides that money in the municipal arena fund shall be used by the largest municipality in the county for financing the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities. Specifies that if the Vanderburgh County council adopts a resolution providing that the Vanderburgh County food and beverage tax should be continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the food and beverage tax: (1) does not terminate after the last of the bonds issued to finance improvements to a county auditorium or auditorium renovations, and the last of any bonds issued to refund those bonds, have been completely paid; and (2) continues until the last of the bonds issued to finance the acquisition, construction, and equipping of the arena and other facilities that serve or support the arena activities, and the last of any bonds issued to refund those bonds, have been completely paid. Repeals superseded provisions of the Allen County food and beverage tax. Repeals provisions specifying that the amounts received from the Vanderburgh County food and beverage tax shall be used to pay bonds issued to finance the construction of an airport terminal.

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February 17, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1604

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-9-2.5-7.5, AS AMENDED BY P.L.224-2007,
2 SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 7.5. (a) The county treasurer shall establish a
4 tourism capital improvement fund.

5 (b) The county treasurer shall deposit money in the tourism capital
6 improvement fund as follows:

7 (1) Before January 1, ~~2010~~, **2015**, the county treasurer shall
8 deposit in the tourism capital improvement fund the amount of
9 money received under section 6 of this chapter that is generated
10 by a three and one-half percent (3.5%) rate.

11 (2) After December 31, ~~2009~~, **2014**, the county treasurer shall
12 deposit in the tourism capital improvement fund the amount of
13 money received under section 6 of this chapter that is generated
14 by a four and one-half percent (4.5%) rate.

15 (c) The commission may transfer money in the tourism capital
16 improvement fund to:

17 (1) the county government, a city government, or a separate body

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corporate and politic in a county described in section 1 of this chapter; or

(2) any Indiana nonprofit corporation;

for the purpose of making capital improvements in the county that promote conventions, tourism, or recreation. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 2. IC 6-9-2.5-7.7, AS AMENDED BY P.L.168-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.7. (a) The county treasurer shall establish a convention center operating fund.

(b) Before January 1, ~~2010~~, **2015**, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate. Money in the fund must be expended for the operating expenses of a convention center.

(c) After December 31, ~~2009~~, **2014**, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate. Money in the fund must be expended for the operating expenses of a convention center with the unused balance transferred on January 1 of each year to the tourism capital improvement fund.

SECTION 3. IC 6-9-20-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on those transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

(d) The tax terminates in a county on January 1 of the year immediately following the year in which the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest.

(~~e~~) Notwithstanding subsection (d), **(d) Except as provided in subsection (e)**, if the county fiscal body determines that the tax under

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1 this chapter should be continued in order to finance improvements to
 2 a county auditorium or auditorium renovation resulting in a new
 3 convention center and related parking facilities, the tax ~~does not~~
 4 ~~terminate as specified in subsection (d) but instead~~ continues until
 5 January 1 of the year following the year in which the last of the bonds
 6 issued to finance improvements to a county auditorium or auditorium
 7 renovation resulting in a new convention center and related parking
 8 facilities, and the last of any bonds issued to refund those bonds, have
 9 been completely paid or defeased as to both principal and interest. An
 10 action to contest the validity of the determination under this subsection
 11 must be instituted not more than thirty (30) days after the
 12 determination.

13 **(e) Notwithstanding subsection (d), if the county fiscal body**
 14 **determines that the tax under this chapter should be continued to**
 15 **finance the acquisition, construction, and equipping of an arena**
 16 **and other facilities that serve or support the arena activities, the**
 17 **tax does not terminate as specified in subsection (d) but continues**
 18 **until January 1 of the year following the year in which the last of**
 19 **the bonds issued to finance the acquisition, construction, and**
 20 **equipping of the arena and other facilities that serve or support the**
 21 **arena activities, and the last of any bonds issued to refund those**
 22 **bonds, have been completely paid or defeased as to both principal**
 23 **and interest. An action to contest the validity of the determination**
 24 **under this subsection must be instituted not more than thirty (30)**
 25 **days after the determination.**

26 SECTION 4. IC 6-9-20-7.5 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. If:

28 (1) the treasurer of the airport authority has certified to the
 29 treasurer of state that the last of the bonds issued to finance the
 30 construction of an airport terminal and the last of any bonds
 31 issued to refund those bonds have been completely paid as to both
 32 principal and interest; and

33 (2) the county fiscal body has determined to continue the tax to
 34 finance improvements to a county auditorium or auditorium
 35 renovation resulting in a new convention center and related
 36 parking facilities **or to finance the acquisition, construction,**
 37 **and equipping of an arena and other facilities that serve or**
 38 **support the arena activities;**

39 the amounts received from the taxes imposed under this chapter shall
 40 be paid monthly by the treasurer of state to the county treasurer **under**
 41 **section 8.5 of this chapter or the fiscal officer of the largest**
 42 **municipality in the county under section 9.5 of this chapter** upon

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warrants issued by the auditor of state.

SECTION 5. IC 6-9-20-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) If the tax imposed under section 3 of this chapter is continued to finance improvements to the county auditorium or auditorium renovation resulting in a new convention center and related parking facilities, the county treasurer shall establish an auditorium fund.

(b) **Except as provided in sections 8.8 and 9.5 of this chapter**, the county treasurer shall deposit in this fund all amounts received under this chapter.

(c) Any money earned from the investment of money in the fund becomes a part of the fund.

(d) Money in the fund shall be used by the county for the financing, construction, renovation, improvement, and equipping of a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities.

SECTION 6. IC 6-9-20-8.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.8. (a) If the tax imposed under section 3 of this chapter is continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the county treasurer shall determine whether there is any food and beverage tax revenue under this chapter that is not required to be deposited and held to:**

(1) pay any debt service on bonds issued or rentals on leases entered into by January 1, 2009, for which a pledge of revenues of the food and beverage tax has been made by the county as set forth in section 8.7 of this chapter; or

(2) provide for a debt service reserve related to the bonds or leases described in subdivision (1).

(b) **Before the twentieth day of each month, the county treasurer shall determine whether there is excess food and beverage tax revenue under subsection (a) and by the last day of that month transfer the excess food and beverage tax revenue to the fiscal officer of the largest municipality in the county. The municipal fiscal officer shall deposit the excess food and beverage tax revenue in a municipal arena fund. Any money earned from the investment of money in the municipal arena fund becomes a part of the municipal arena fund. Money in the municipal arena fund shall be used by the largest municipality in the county for financing the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities. This money**

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shall be retained in the municipal arena fund until applied or transferred to another fund pledged to the payment of debt service on bonds, rent on leases, or other obligations incurred to finance the facilities.

SECTION 7. IC 6-9-20-8.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.9. (a) If the tax imposed under section 3 of this chapter is continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the largest municipality in the county may issue bonds, enter into leases, or incur other obligations to:**

(1) pay any costs associated with the financing, acquisition, construction, and equipping of the arena and other facilities that serve or support the arena activities; or

(2) refund bonds issued or other obligations incurred under this chapter so long as any bonds issued or other obligations incurred to refund bonds or retire other obligations do not extend the date when the previous bonds or other obligations will be completely paid as to principal and interest.

(b) Bonds issued or other obligations incurred under this section:

(1) are payable from money provided in this chapter, any other revenues available to the municipality, or any combination of these sources;

(2) must be issued in the manner prescribed by IC 36-4-6-19 through IC 36-4-6-20;

(3) may not have a term ending more than thirty (30) years after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed;

(4) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality reasonably expects to pay the debt service from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality has pledged to levy property taxes to pay the debt service if those other funds are insufficient); and

(5) may, in the discretion of the municipality, be sold at a negotiated sale at a price to be determined by the municipality or in accordance with IC 5-1-11 and IC 5-3-1.

(c) Leases entered into under this section:

(1) may be for a term ending not later than thirty (30) years

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after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed;

(2) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality reasonably expects to pay the lease rentals from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality has pledged to levy property taxes to pay the lease rentals if those other funds are insufficient);

(3) may provide for payments from revenues under this chapter, any other revenues available to the municipality, or any combination of these sources;

(4) may provide that payments by the municipality to the lessor are required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;

(5) must be based upon the value of the facilities leased; and

(6) may not create a debt of the municipality for purposes of the Constitution of the State of Indiana.

(d) A lease may be entered into by the municipal executive after a public hearing of the municipal fiscal body at which all interested parties are provided the opportunity to be heard. After the public hearing, the municipal executive may approve the execution of the lease on behalf of the municipality only if:

(1) the municipal executive finds that the service to be provided throughout the life of the lease will serve the public purpose of the municipality and is in the best interests of its residents; and

(2) the lease is approved by an ordinance of the municipal fiscal body.

(e) An action to contest the validity of bonds issued or leases entered into under this section must be brought not later than thirty (30) days after the adoption of a bond ordinance or the municipal executive's action approving the execution of the lease.

(f) Notwithstanding the provisions of this chapter or any other law, instead of issuing bonds, entering into leases, or incurring obligations in whole or in part under this chapter, the largest municipality in the county may cause bonds to be issued, leases to be entered into, or obligations to be incurred under this subsection to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena. The bonds,

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leases, or obligations:

(1) must be issued, entered, or incurred by any special taxing district, agency, department, or instrumentality of or in the municipality, under any other law by which bonds may be issued, leases may be entered, or obligations incurred;

(2) must be payable from money provided under this chapter, from any other revenues available to the municipality or any special taxing district, agency, department, or instrumentality of or in the municipality, or any combination of these sources;

(3) must have a term ending not later than thirty (30) years after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed; and

(4) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality, special taxing district, agency, department, or instrumentality of or in the municipality reasonably expects to pay the debt service or lease rentals from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality or any special taxing district, agency, department, or instrumentality of or in the municipality has pledged to levy property taxes to pay the debt service or lease rentals if those other funds are insufficient).

SECTION 8. IC 6-9-20-9 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: Sec. 9. With respect to

(1) bonds for which a pledge of airport authority revenues has been made by the airport authority, the Indiana general assembly covenants with the airport authority and the purchasers of those bonds that:

(A) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed by this chapter; and

(B) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed by this chapter may be used;

as long as the principal of or interest on any of those bonds is unpaid; and

(2) bonds, leases, or other obligations for which a pledge of revenues of the food and beverage tax imposed under this chapter has been made by the county as set forth in section 8.7 or 8.9 of this chapter, and bonds issued by a lessor that are payable from lease rentals, the general assembly covenants with the county, the

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largest municipality in the county, and the purchasers or owners of the bonds or other obligations described in this subdivision that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the food and beverage tax imposed by this chapter as long as the principal of any bonds, the interest on any bonds, or the lease rentals due under any lease are unpaid.

SECTION 9. IC 6-9-20-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9.5. If:

(1) the county treasurer has certified to the treasurer of state that:

(A) the last of the bonds issued to finance the improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities; and

(B) the last of any bonds issued to refund the bonds referred to in clause (A);

have been completely paid or defeased as to both principal and interest; and

(2) the county fiscal body has made a determination to continue the tax to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities;

the amounts received from the taxes imposed under this chapter shall be paid monthly by the treasurer of state to the fiscal officer of the largest municipality in the county upon warrants issued by the auditor of state. The fiscal officer shall deposit any amounts received under this section in the municipal arena fund.

SECTION 10. IC 6-9-20-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. The financing of:

(1) improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities; and

(2) the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities;

serves a public purpose and is of benefit to the general welfare of the county by enhancing cultural activities and improving the quality of life in the county and encouraging investment, economic growth, and diversity.

SECTION 11. IC 6-9-33-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. The county

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supplemental food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter may not exceed one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5. ~~or IC 6-9-23.~~

SECTION 12. IC 6-9-33-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. **(a)** If a tax is imposed under section 3 of this chapter, the county treasurer shall establish a supplemental coliseum improvement fund. The county treasurer shall deposit in this fund all amounts received from the tax imposed under this chapter. Money in this fund:

(1) may be appropriated only

~~(1) for acquisition, improvement, remodeling, or expansion of; or~~
~~(2) to retire or advance refund bonds issued, loans obtained, or~~
 lease payments incurred under IC 36-1-10 (referred to in this chapter as "obligations") to remodel, expand, improve, or acquire an athletic and exhibition coliseum in existence before the effective date of an ordinance adopted under section 3 of this chapter, **with respect to obligations for which a pledge of revenue received under this chapter was made before January 1, 2009; and**

(2) shall be used to make transfers required by subsection (b).

(b) There is established a food and beverage tax reserve account to be administered by the capital improvement board of managers (IC 36-10-8). Any money deposited in the supplemental coliseum improvement fund after June 30, 2009, that is not needed in a year to make payments on obligations for which a pledge of revenue under this chapter was made before January 1, 2009, shall be transferred to the capital improvement board. The county treasurer shall make the transfer before February 1 of the following year. The capital improvement board shall deposit the money it receives in the board's food and beverage tax reserve account. Money in the reserve account may not be withdrawn or transferred during the year it is received except to make transfers back to the county to make payments on obligations for which a pledge of revenue under this chapter was made before January 1, 2009. However, the capital improvement board may transfer:

(1) interest earned on money in the reserve account; and

(2) an amount equal to the balance that has been held in the reserve account for at least twelve (12) months;

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1 to the board's capital improvement fund established by
2 IC 36-10-8-12.

3 SECTION 13. IC 6-9-33-9 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. ~~(a) The county may~~
5 ~~enter into an agreement under which amounts deposited in, or to be~~
6 ~~deposited in, the supplemental coliseum expansion fund are pledged to~~
7 ~~payment of obligations issued to finance the remodeling, expansion, or~~
8 ~~maintenance of an athletic and exhibition coliseum under section 8 of~~
9 ~~this chapter.~~

10 ~~(b)~~ (a) Obligations entered into before January 1, 2009, for the
11 acquisition, expansion, remodeling, and improvement of an athletic and
12 exhibition coliseum shall be retired by using money collected from a
13 tax imposed under this chapter.

14 ~~(c)~~ (b) With respect to obligations for which a pledge has been made
15 under ~~subsection (a)~~, this section before January 1, 2009, the general
16 assembly covenants with the holders of these obligations that:

17 (1) this chapter will not be repealed or amended in any manner
18 that will adversely affect the imposition or collection of the tax
19 imposed under this chapter; and

20 (2) this chapter will not be amended in any manner that will
21 change the purpose for which revenues from the tax imposed
22 under this chapter may be used;

23 as long as the payment of any of those obligations is outstanding.

24 SECTION 14. IC 6-9-33-11 IS ADDED TO THE INDIANA CODE
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2009]: Sec. 11. On or before December 31 each year, the
27 executive director of the World War Memorial Coliseum shall
28 submit to the capital improvement board of managers an annual
29 report of the operations of the coliseum.

30 SECTION 15. IC 36-10-8-6 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. The board may,
32 acting under the name "(name of county) county capital improvement
33 board of managers", or, if the board was created under IC 18-7-18
34 (before its repeal on February 24, 1982), "~~(name of the city) and (name~~
35 ~~of the county) county convention and tourism authority~~", "**(name of**
36 **the county) and (name of the city) capital improvement board of**
37 **managers**", do the following:

38 (1) Acquire by grant, purchase, gift, devise, lease, or otherwise,
39 and hold, use, sell, lease, or dispose of, real and personal property
40 and any rights and interests in it necessary or convenient for the
41 exercise of its powers under this chapter.

42 (2) Construct, reconstruct, repair, remodel, enlarge, extend, or add

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to any capital improvement under this chapter and condemn, appropriate, lease, rent, purchase, and hold any real property, rights-of-way, materials, or personal property needed for the purposes of this chapter, even if it is already held for a governmental or public use.

(3) Control and operate a capital improvement, and receive and collect money due to the operation or otherwise relating to the capital improvement, including employing an executive manager and other agents and employees that are necessary for the acquisition, construction, and proper operation of the improvements and fixing the compensation of all employees with a contract of employment or other arrangement terminable at the will of the board. However, a contract may be entered into with an executive manager and associate manager for a period not longer than four (4) years at one (1) time and may be extended from time to time for the same or shorter periods.

(4) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of a capital improvement.

(5) Lease a capital improvement or a part of it to any association, corporation, or individual, with or without the right to sublet.

(6) Fix charges and establish rules and regulations governing the use of a capital improvement.

(7) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, or a political subdivision or department of either, including entering into and carrying out contracts and agreements in connection with this subdivision.

(8) Acquire the site for a capital improvement, or a part of a site by conveyance from the redevelopment commission of a city within the county in which the board is created or from any other source, on the terms that may be agreed upon.

(9) If the board was created under IC 18-7-18 (before its repeal on February 24, 1982), exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.

(10) Receive and collect all money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes, but any employees or

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members of the board authorized to receive, collect, and expend money must be covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an employee or member of the board without prior specific approval by the board.

(11) Provide coverage for its employees under IC 22-3 and IC 22-4.

(12) Purchase public liability and other insurance considered desirable.

(13) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.

(14) Maintain and repair a capital improvement and all equipment and facilities that are a part of it, including the employment of a building superintendent and other employees that are necessary to maintain the capital improvement.

(15) Sue and be sued in its own name, service of process being had upon the president or vice president of the board or by leaving a copy at the board's office.

(16) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and publicize the capital improvement and serve the commercial, industrial, and cultural interests of Indiana and its citizens by the use of the capital improvement. It may assist and cooperate with public, governmental, and private agencies and groups for these purposes.

(17) Promote the development and growth of the convention and visitor industry in the county.

(18) Transfer money from the capital improvement fund established by this chapter to any Indiana not-for-profit corporation for the promotion and encouragement of conventions, trade shows, visitors, and special events in the county.

SECTION 16. IC 36-10-8-16, AS AMENDED BY P.L.146-2008, SECTION 796, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county or, if the **authority board** was created under IC 18-7-18 (before its repeal on February 24, 1982), also of the city, if the board determines that the estimated annual net income of the capital improvement, plus the estimated annual tax revenues to be derived from any tax revenues made available for this purpose, will not

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1 be sufficient to satisfy and pay the principal of and interest on all bonds
2 issued under this chapter, including the bonds then proposed to be
3 issued.

4 (b) If the board desires to finance a capital improvement in whole
5 or in part as provided in this section, it shall have prepared a resolution
6 to be adopted by the county executive authorizing the issuance of
7 general obligation bonds, or, if the **authority board** was created under
8 IC 18-7-18 (before its repeal on February 24, 1982), by the fiscal body
9 of the city authorizing the issuance of general obligation bonds. The
10 resolution must set forth an itemization of the funds and assets received
11 by the board, together with the board's valuation and certification of the
12 cost. The resolution must state the date or dates on which the principal
13 of the bonds is payable, the maximum interest rate to be paid, and the
14 other terms upon which the bonds shall be issued. The board shall
15 submit the proposed resolution to the proper officers, together with a
16 certificate to the effect that the issuance of bonds in accordance with
17 the resolution will be in compliance with this section. The certificate
18 must also state the estimated annual net income of the capital
19 improvement to be financed by the bonds, the estimated annual tax
20 revenues, and the maximum amount payable in any year as principal
21 and interest on the bonds issued under this chapter, including the bonds
22 proposed to be issued, at the maximum interest rate set forth in the
23 resolution. The bonds issued may mature over a period not exceeding
24 forty (40) years from the date of issue.

25 (c) Upon receipt of the resolution and certificate, the proper officers
26 may adopt them and take all action necessary to issue the bonds in
27 accordance with the resolution. An action to contest the validity of
28 bonds issued under this section may not be brought after the fifteenth
29 day following the receipt of bids for the bonds.

30 (d) The provisions of all general statutes relating to:

31 (1) the filing of a petition requesting the issuance of bonds and
32 giving notice;

33 (2) the right of:

34 (A) taxpayers and voters to remonstrate against the issuance of
35 bonds in the case of a proposed bond issue described by
36 IC 6-1.1-20-3.1(a); or

37 (B) voters to vote on the issuance of bonds in the case of a
38 proposed bond issue described by IC 6-1.1-20-3.5(a);

39 (3) the giving of notice of the determination to issue bonds;

40 (4) the giving of notice of a hearing on the appropriation of the
41 proceeds of bonds;

42 (5) the right of taxpayers to appear and be heard on the proposed

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1 appropriation;
2 (6) the approval of the appropriation by the department of local
3 government finance; and
4 (7) the sale of bonds at public sale;
5 apply to the issuance of bonds under this section.

6 SECTION 17. IC 36-10-8-21 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2009]: **Sec. 21. (a) This section applies only**
9 **to a board that was created under IC 18-7-18 (before its repeal on**
10 **February 24, 1982).**

11 **(b) On or before December 31 each year, the executive manager**
12 **shall submit to the board an annual report of the operations of the**
13 **convention and visitor center.**

14 SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE
15 JULY 1, 2009]: IC 6-9-20-7; IC 6-9-20-8; IC 6-9-23; IC 6-9-33-10.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1604, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1604 as introduced.)

SMITH V, Chair

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1604, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-9-2.5-7.5, AS AMENDED BY P.L.224-2007, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) The county treasurer shall establish a tourism capital improvement fund.

(b) The county treasurer shall deposit money in the tourism capital improvement fund as follows:

(1) Before January 1, ~~2010~~, **2015**, the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a three and one-half percent (3.5%) rate.

(2) After December 31, ~~2009~~, **2014**, the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a four and one-half percent (4.5%) rate.

(c) The commission may transfer money in the tourism capital improvement fund to:

(1) the county government, a city government, or a separate body corporate and politic in a county described in section 1 of this

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chapter; or

(2) any Indiana nonprofit corporation;

for the purpose of making capital improvements in the county that promote conventions, tourism, or recreation. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 2. IC 6-9-2.5-7.7, AS AMENDED BY P.L.168-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.7. (a) The county treasurer shall establish a convention center operating fund.

(b) Before January 1, ~~2010~~, **2015**, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a two percent (2%) rate. Money in the fund must be expended for the operating expenses of a convention center.

(c) After December 31, ~~2009~~, **2014**, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate. Money in the fund must be expended for the operating expenses of a convention center with the unused balance transferred on January 1 of each year to the tourism capital improvement fund.

SECTION 3. IC 6-9-20-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The fiscal body of the county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on those transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance was adopted.

~~(d) The tax terminates in a county on January 1 of the year immediately following the year in which the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest.~~

~~(e) Notwithstanding subsection (d);~~ **(d) Except as provided in subsection (e),** if the county fiscal body determines that the tax under this chapter should be continued in order to finance improvements to

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a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities, the tax ~~does not terminate as specified in subsection (d) but instead~~ continues until January 1 of the year following the year in which the last of the bonds issued to finance improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities, and the last of any bonds issued to refund those bonds, have been completely paid or defeased as to both principal and interest. An action to contest the validity of the determination under this subsection must be instituted not more than thirty (30) days after the determination.

(e) Notwithstanding subsection (d), if the county fiscal body determines that the tax under this chapter should be continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the tax does not terminate as specified in subsection (d) but continues until January 1 of the year following the year in which the last of the bonds issued to finance the acquisition, construction, and equipping of the arena and other facilities that serve or support the arena activities, and the last of any bonds issued to refund those bonds, have been completely paid or defeased as to both principal and interest. An action to contest the validity of the determination under this subsection must be instituted not more than thirty (30) days after the determination.

SECTION 4. IC 6-9-20-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. If:

~~(1) the treasurer of the airport authority has certified to the treasurer of state that the last of the bonds issued to finance the construction of an airport terminal and the last of any bonds issued to refund those bonds have been completely paid as to both principal and interest; and~~

~~(2) the county fiscal body has determined to continue the tax to finance improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities or to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities;~~

the amounts received from the taxes imposed under this chapter shall be paid monthly by the treasurer of state to the county treasurer **under section 8.5 of this chapter or the fiscal officer of the largest municipality in the county under section 9.5 of this chapter** upon warrants issued by the auditor of state.

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SECTION 5. IC 6-9-20-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) If the tax imposed under section 3 of this chapter is continued to finance improvements to the county auditorium or auditorium renovation resulting in a new convention center and related parking facilities, the county treasurer shall establish an auditorium fund.

(b) **Except as provided in sections 8.8 and 9.5 of this chapter**, the county treasurer shall deposit in this fund all amounts received under this chapter.

(c) Any money earned from the investment of money in the fund becomes a part of the fund.

(d) Money in the fund shall be used by the county for the financing, construction, renovation, improvement, and equipping of a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities.

SECTION 6. IC 6-9-20-8.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.8. (a) **If the tax imposed under section 3 of this chapter is continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the county treasurer shall determine whether there is any food and beverage tax revenue under this chapter that is not required to be deposited and held to:**

- (1) pay any debt service on bonds issued or rentals on leases entered into by January 1, 2009, for which a pledge of revenues of the food and beverage tax has been made by the county as set forth in section 8.7 of this chapter; or
- (2) provide for a debt service reserve related to the bonds or leases described in subdivision (1).

(b) Before the twentieth day of each month, the county treasurer shall determine whether there is excess food and beverage tax revenue under subsection (a) and by the last day of that month transfer the excess food and beverage tax revenue to the fiscal officer of the largest municipality in the county. The municipal fiscal officer shall deposit the excess food and beverage tax revenue in a municipal arena fund. Any money earned from the investment of money in the municipal arena fund becomes a part of the municipal arena fund. Money in the municipal arena fund shall be used by the largest municipality in the county for financing the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities. This money shall be retained in the municipal arena fund until applied or

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transferred to another fund pledged to the payment of debt service on bonds, rent on leases, or other obligations incurred to finance the facilities.

SECTION 7. IC 6-9-20-8.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.9. (a) If the tax imposed under section 3 of this chapter is continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the largest municipality in the county may issue bonds, enter into leases, or incur other obligations to:**

- (1) pay any costs associated with the financing, acquisition, construction, and equipping of the arena and other facilities that serve or support the arena activities; or**
- (2) refund bonds issued or other obligations incurred under this chapter so long as any bonds issued or other obligations incurred to refund bonds or retire other obligations do not extend the date when the previous bonds or other obligations will be completely paid as to principal and interest.**

(b) Bonds issued or other obligations incurred under this section:

- (1) are payable from money provided in this chapter, any other revenues available to the municipality, or any combination of these sources;**
- (2) must be issued in the manner prescribed by IC 36-4-6-19 through IC 36-4-6-20;**
- (3) may not have a term ending more than thirty (30) years after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed;**
- (4) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality reasonably expects to pay the debt service from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality has pledged to levy property taxes to pay the debt service if those other funds are insufficient); and**
- (5) may, in the discretion of the municipality, be sold at a negotiated sale at a price to be determined by the municipality or in accordance with IC 5-1-11 and IC 5-3-1.**

(c) Leases entered into under this section:

- (1) may be for a term ending not later than thirty (30) years after the first February 1 following the date on which**

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construction of the arena and other facilities that serve or support the arena activities is estimated to be completed;

(2) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality reasonably expects to pay the lease rentals from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality has pledged to levy property taxes to pay the lease rentals if those other funds are insufficient);

(3) may provide for payments from revenues under this chapter, any other revenues available to the municipality, or any combination of these sources;

(4) may provide that payments by the municipality to the lessor are required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;

(5) must be based upon the value of the facilities leased; and

(6) may not create a debt of the municipality for purposes of the Constitution of the State of Indiana.

(d) A lease may be entered into by the municipal executive after a public hearing of the municipal fiscal body at which all interested parties are provided the opportunity to be heard. After the public hearing, the municipal executive may approve the execution of the lease on behalf of the municipality only if:

(1) the municipal executive finds that the service to be provided throughout the life of the lease will serve the public purpose of the municipality and is in the best interests of its residents; and

(2) the lease is approved by an ordinance of the municipal fiscal body.

(e) An action to contest the validity of bonds issued or leases entered into under this section must be brought not later than thirty (30) days after the adoption of a bond ordinance or the municipal executive's action approving the execution of the lease.

(f) Notwithstanding the provisions of this chapter or any other law, instead of issuing bonds, entering into leases, or incurring obligations in whole or in part under this chapter, the largest municipality in the county may cause bonds to be issued, leases to be entered into, or obligations to be incurred under this subsection to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena. The bonds, leases, or obligations:

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- (1) must be issued, entered, or incurred by any special taxing district, agency, department, or instrumentality of or in the municipality, under any other law by which bonds may be issued, leases may be entered, or obligations incurred;
- (2) must be payable from money provided under this chapter, from any other revenues available to the municipality or any special taxing district, agency, department, or instrumentality of or in the municipality, or any combination of these sources;
- (3) must have a term ending not later than thirty (30) years after the first February 1 following the date on which construction of the arena and other facilities that serve or support the arena activities is estimated to be completed; and
- (4) may be payable at any regular designated intervals and may be paid in unequal amounts if the municipality, special taxing district, agency, department, or instrumentality of or in the municipality reasonably expects to pay the debt service or lease rentals from funds other than property taxes that are exempt from the levy limitations of IC 6-1.1-18.5 (even if the municipality or any special taxing district, agency, department, or instrumentality of or in the municipality has pledged to levy property taxes to pay the debt service or lease rentals if those other funds are insufficient).

SECTION 8. IC 6-9-20-9 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: Sec. 9. With respect to

(1) bonds for which a pledge of airport authority revenues has been made by the airport authority, the Indiana general assembly covenants with the airport authority and the purchasers of those bonds that:

(A) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed by this chapter; and

(B) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed by this chapter may be used;

as long as the principal of or interest on any of those bonds is unpaid; and

(2) bonds, leases, or other obligations for which a pledge of revenues of the food and beverage tax imposed under this chapter has been made by the county as set forth in section 8.7 or 8.9 of this chapter, and bonds issued by a lessor that are payable from lease rentals, the general assembly covenants with the county, **the largest municipality in the county**, and the purchasers or owners

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of the bonds or other obligations described in this subdivision that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the food and beverage tax imposed by this chapter as long as the principal of any bonds, the interest on any bonds, or the lease rentals due under any lease are unpaid.

SECTION 9. IC 6-9-20-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.5. If:**

(1) the county treasurer has certified to the treasurer of state that:

(A) the last of the bonds issued to finance the improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities; and

(B) the last of any bonds issued to refund the bonds referred to in clause (A);

have been completely paid or defeased as to both principal and interest; and

(2) the county fiscal body has made a determination to continue the tax to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities;

the amounts received from the taxes imposed under this chapter shall be paid monthly by the treasurer of state to the fiscal officer of the largest municipality in the county upon warrants issued by the auditor of state. The fiscal officer shall deposit any amounts received under this section in the municipal arena fund.

SECTION 10. IC 6-9-20-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11. The financing of:**

(1) improvements to a county auditorium or auditorium renovation resulting in a new convention center and related parking facilities; and

(2) the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities;

serves a public purpose and is of benefit to the general welfare of the county by enhancing cultural activities and improving the quality of life in the county and encouraging investment, economic growth, and diversity."

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Page 6, line 40, after ":" insert "IC 6-9-20-7; IC 6-9-20-8;".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1604 as printed February 11, 2009.)

CRAWFORD, Chair

Committee Vote: yeas 22, nays 0.

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